IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 9314 of 2005

Between:

M/s.paro Food Products, 8-14-27, near Mir Alam Water filter,
Miralam Tank Road, Bahadurpura, Hyderabad
rep.by its Partner, Mr.Umakanth Agrawal.

..... PETITIONER

AND

1 The Controlling Authority

under the payment of Gratuity Act and

Assistant Commissioner of Labour, Circle-IV,
T.Anjaiah, Karmika Sankshema Bhavan,

R.T.C. X Roads, Hyderabad.
2 S.J.Prasad Rao, Assistant Labour officer,

O/o.Deputy Commissioner of Labour
T.Anjaiah, Karimka Sankshema Bhavan,

RTC Cross Roads, Hyderabad.
3 Mr. Babu Rao, S/o.Ganga Ram,
Ex-worker (Sheeraman), R/o.19-582/1/3/A,
Kishan Bagh, Bahadurpura, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue suitable order, direction or a writ particularly one in the nature of certiorari and to declare the action of the 2nd respondent in issuing the distraint order bearing No.B1/4242/2004 dated 06-01-2005 as illegal, arbitrary and consequently to set aside the same in the interest of the justice and equity and pass such other order or orders as this Hon'ble court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.C.NIRAJAN RAO
Counsel for the Respondent No: GP FOR LABOUR

The Court at the stage of admission made the following :

ORDER:

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To declare the action of the second respondent in issuing the Distraint order bearing No.B1/4242/2004 dated 6-1-2005 as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Labour. Perused the material papers.

As seen from the record, the distraint orders dated 6-1-2005 were issued as per the instructions of the Deputy Commissioner of Labour, Hyderabad dated 30-06-2004. As per the orders of the controlling authority under Payment of Gratuity Act, in P.G.No.5/2003, dated 14-07-2004, the opposite party was directed to deposit a total sum of Rs.32,308/- along with interest payable at the rate of 9%p.a., but that order is not under challenge.

According to the learned counsel for the petitioner, he filed an application to set aside the *exparte* order dated 14-07-2004 made in P.G.No.5/2003 and the said application was not yet numbered. Therefore, issuing of notice is arbitrary. This court is unable to accept the said contention, because the original order passed by the Assistant Commissioner of Labour, Hyderabad, in P.G.No.5/2003 is not under challenge. The present impugned notice dated 06-01-2005 is only a consequential order. Hence the writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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K.C.BHANU, J.

Dated: 26/04/2005.

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To

1 The Controlling Authority

under the payment of Gratuity Act and

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4 Two CD copies